



February 25, 2005

SENATE BILL No. 557

DIGEST OF SB 557 (Updated February 22, 2005 2:27 pm - DI 106)

Citations Affected: IC 35-33; IC 35-46; noncode.

Synopsis: Unlawful recording. Provides that a person who knowingly or intentionally uses an audiovisual recording device in a motion picture exhibition facility with the intent to transmit or record a motion picture commits unlawful recording, a Class B misdemeanor. Allows an owner or agent of a motion picture exhibition facility who has probable cause to believe that a person has committed unlawful recording to detain the person.

Effective: July 1, 2005.

Young R Michael, Howard

January 20, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 24, 2005, amended, reported favorably — Do Pass.

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SB 557—LS 7881/DI 69+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 557

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-33-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
3 chapter:
4 "Adult employee" means an employee who is eighteen (18) years
5 old or older.
6 "Agent" means an operator, **a** manager, **an** adult employee, or **a**
7 security agent employed by a store.
8 "**Motion picture exhibition facility**" **has the meaning set forth**
9 **in IC 35-46-8-3.**
10 "Security agent" means a person who has been employed by a store
11 to prevent the loss of property due to theft.
12 "Store" means a place of business where property or service with
13 respect to property is displayed, rented, sold, or offered for sale.
14 SECTION 2. IC 35-33-6-2.5 IS ADDED TO THE INDIANA CODE
15 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2005]: **Sec. 2.5. (a) An owner or agent of a motion picture**
17 **exhibition facility who has probable cause to believe that an**

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unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility and who has probable cause to believe that a specific person has committed or is committing the unlawful recording may:

- (1) detain the person and request the person to provide identification;
- (2) verify the identification;
- (3) determine whether the person possesses at the time of detention an audiovisual recording device (as defined in IC 35-46-8-2);
- (4) confiscate any unauthorized copies of a motion picture or another audiovisual work; and
- (5) inform the appropriate law enforcement officer or agency that the person is being detained.

(b) Detention under subsection (a):

- (1) must:
 - (A) be reasonable; and
 - (B) last only for a reasonable time; and
- (2) may not extend beyond the arrival of a law enforcement officer.

SECTION 3. IC 35-33-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. An owner or agent of a store **or motion picture exhibition facility** who informs a law enforcement officer of the circumstantial basis for detention and any additional relevant facts shall be presumed to be placing information before the law enforcement officer. The placing of this information does not constitute a charge of crime.

SECTION 4. IC 35-33-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A civil or criminal action against:

- (1) an owner or agent of a store **or motion picture exhibition facility**; or
- (2) a law enforcement officer;

may not be based on a detention ~~which~~ **that** was lawful under section 2 **or 2.5** of this chapter. However, the defendant has the burden of proof that ~~he~~ **the defendant** acted with probable cause under section 2 of this chapter.

SECTION 5. IC 35-33-6-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. An owner or agent of a motion picture exhibition facility may act in the manner allowed by section 2.5 of this chapter on information received from an employee of the motion

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picture exhibition facility if the employee has probable cause to believe that:

- (1) an unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility; and
- (2) a specific person has committed or is committing the unlawful recording.

SECTION 6. IC 35-46-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8. Unlawful Recording

Sec. 1. This chapter does not apply to a law enforcement officer acting within the scope of the officer's employment.

Sec. 2. As used in this chapter, "audiovisual recording device" means:

- (1) a digital or an analog photographic or video camera; or
- (2) any other technology capable of enabling the recording or transmission of a motion picture or other audiovisual work; regardless of whether audiovisual recording is the sole or primary purpose of the device.

Sec. 3. (a) As used in this chapter, "motion picture exhibition facility" means:

- (1) an indoor or outdoor screening venue; or
- (2) any other premises;

where motion pictures or other audiovisual works are shown to the public for a charge, regardless of whether an admission fee is charged.

(b) The term does not include a dwelling.

Sec. 4. (a) A person who knowingly or intentionally uses an audiovisual recording device in a motion picture exhibition facility with the intent to transmit or record a motion picture commits unlawful recording, a Class B misdemeanor.

(b) It is a defense to a prosecution under this section that the accused person had the written permission of the motion picture exhibition facility owner to transmit or record the motion picture.

Sec. 5. In addition to a criminal penalty imposed for an offense under this chapter, a court may order the forfeiture, destruction, or other disposition of:

- (1) all unauthorized copies of motion pictures or other audiovisual works; and
- (2) any audiovisual recording devices or other equipment used in connection with the offense.

SECTION 7. [EFFECTIVE JULY 1, 2005] IC 35-46-8, as added

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1 **by this act, applies only to crimes committed after June 30, 2005.**

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SENATE MOTION

Madam President: I move that Senator Howard be added as second author of Senate Bill 557.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 557, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, after "work;" insert "**and**".

Page 2, line 13, delete "; and" and insert "**or agency that the person is being detained.**".

Page 2, delete lines 14 through 17.

and when so amended that said bill do pass.

(Reference is to SB 557 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 10, Nays 0.

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